

Rejections Under 35 USC 112(1):

The Examiner has also rejected claims 39 and 45 under 35 USC 112(1) as containing subject matter which was not described in the specification. Applicants respectfully disagree. For example and without limitation, the specification discloses that an “elastic member is intermittently joined to the elongate sleeve member” (page 31 at lines 5-6). In addition, the specification and drawings further disclose that elastic members are delivered or positioned on base layer 142 such that they overlie adhesive zones 156 in opposite edge portions, which “results in an intermittent joining of elastic members 140 in their respective edge portions 146, 148” (specification at page 50, lines 5-6). Accordingly, the Examiner’s rejection should be withdrawn.

Drawing Objections:

The Examiner has objected to the drawings as not showing a plurality of elastic members, an intermittent joining of the elastic member to the elongate sleeve, or an outer cover comprising a liquid-permeable layer and a liquid-impermeable layer (Office Action at 2-3).

With respect to the Examiner’s objection that the drawings fail to show a plurality of elastic members, Applicants direct the Examiner’s attention to FIG. 4, which shows a pair of elastic members 140 being applied to the edge portions (specification at page 49, lines 22-23). In this embodiment, the plurality of elastic elements are arranged end-to-end. Applicants submit that the plurality of elastic elements, as claimed, can also be comprised of a plurality of elastic elements being arranged side-by-side between the outermost and innermost peripheral edges 76, 78 (specification at page 11, lines 21-27).

With respect to the Examiner’s objection that the drawings fail to show an intermittent joining of the elastics, Applicants direct the Examiner’s attention to FIG. 4, and the intermittent joining of elastic members 140 to the edge portions 146, 148

(specification at page 48, line 25 to page 49, line 5; page 50, lines 5-6).

With respect to the Examiner's objection that the drawings fail to show an outer cover comprising a liquid-permeable layer and a liquid-impermeable layer, Applicant directs the Examiner's attention to FIGS. 2 and 3, which show an "outer cover layer 46 [that] is desirably a two-layer material that includes an outer layer 50, which can be made of a nonwoven liquid permeable material, and an inner layer 52, which can be made of a liquid impermeable layer" (page 10, lines 4-7).

For all of the reasons set forth above, the Examiner's rejections concerning the drawings should be withdrawn.

Prior Art Rejections of Claims 33-39:

The Examiner has rejected claims 33-39 as being obvious over U.S. Patent No. 3,756,878 to Willot. Claim 33 recites a "waist elastic system being a separate structure from said chassis." In parent case S/N 08/455,366, the Examiner stated in his "statement of reasons for allowance" that "a closed-loop waist elastic system which is a separate structure from the chassis . . . better define[s] over Willot" (Notice of Allowance at 5) (Tab A). Therefore, as acknowledged by the Examiner, Willot does not disclose or suggest this recitation, and the Examiner's rejections should be withdrawn.

In addition, Willot fails to disclose any "elongate elastic member" as recited in claim 33. Rather, Willot merely discloses draw ties, draw ribbons or fastening means 7, 8" (Col. 2, lines 19-20). Indeed, Willot further discloses that to secure the pant on the body of the user, "it is merely necessary to take hold of the ribbon 7 and/or 8 and withdraw it partly from its passage by sliding it inside latter, so that the waist can be tightened" (Col. 2, lines 47-50). In this way, Willot actually teaches away from using an elastic, since the elastic would tend to elongate rather than slide within the passage, and would retract after release.

Since Willot fails to teach all of the recitations of claim 33, and further fails to suggest modifying the structure as claimed, the Examiner has failed to make out a

prima facie case of obviousness and the rejections should be withdrawn (see MPEP 2143), as they were in parent application S/N 08/455,366.

Prior Art Rejections of Claims 40-51:

The Examiner has rejected claims 40-45 as being anticipated by Willot, and claims 46-51 as being made obvious over Willot in view of U.S. Patent No. 5,242,436 to Weil. As a threshold matter, Willot fails to disclose a multi-layer structure having an outer cover, a liner and an absorbent structure disposed therebetween. In particular, Willot fails to disclose a “liner.”

Applicants respectfully disagree with the Examiner’s assertion that the absorbent structure inherently has a liner for contact with the body. “The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic” (MPEP 2112). In the present case, the Examiner has not provided any evidence that the liner is necessarily present. Moreover, the Examiner cannot assert that a portion of the absorbent structure of Willot forms the liner, since the claim calls for a *multi-layer* chassis comprising an outer cover, a liner and an absorbent structure.

In addition, Willot fails to disclose any “elongate elastic member” as recited in claim 40. Rather, as explained above with respect to claim 33, Willot merely discloses draw ties, draw ribbons or fastening means 7, 8” (Col. 2, lines 19-20), and actually teaches away from using an elastic.

Accordingly, Willot fails to disclose all of the limitations of claim 40 and the Examiner’s rejection should be withdrawn. Applicants have amended claim 40 merely to correct the spelling of “chassis,” rather than for any reason related to the patentability thereof. This amendment has not narrowed in any way the scope of claim 40. A marked-up version of claim 40 showing the amendment thereto is provided at Appendix A.

New Claim 52:

Applicants have added new claim 52 to further define Applicants' invention. Claim 52 recites that the at least one elongate elastic member is completely encapsulated within the elongate passage around the entire periphery of the waist opening. Claim 52 further defines over the cited art. For example and without limitation, Willot discloses that the edges 2, 3 are cut out so as to form slots 2a, 3a, such that the ribbon 7, 8 can be taken hold of (Col. 2, lines 35-37; FIGS. 1 and 3). Therefore, Willot does not disclose and teaches against the recitations of claim 52.

After amendment, this application has 20 claims. Accordingly, no additional claims fees are believed to be due. The discussion of claim 52 should not be taken as an admission that other dependent claims not specifically discussed herein are not also patentable over the applied references for additional reasons.

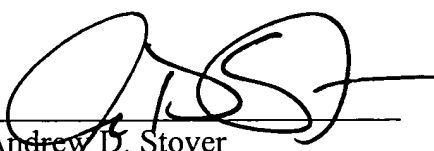
CONCLUSION:

If for any reason this application is not considered to be in condition for allowance and another interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,

Dated: 5/5/03

By:


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APPENDIX A

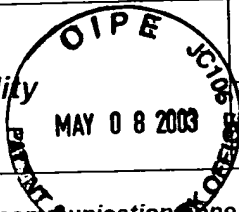
Claim 40 has been amended as follows:

40. (Amended) A disposable absorbent pant comprising:

a multi-layer chassis including an outer cover, a liner, and an absorbent structure disposed between said outer cover and said liner, said outer cover having a first surface facing said liner and a second surface opposite said first surface, said [chassis] chassis formed as a pant and including a waist opening and a pair of leg openings, one layer of said multi-layer structure including an extension portion extending beyond an edge of another layer of said multi-layer structure and peripherally surrounding said waist opening; and

a closed-loop waist elastic system including an elongate sleeve member defining an elongate passage therein, said waist elastic system being generally peripherally disposed about said waist opening, and at least one elongate elastic member disposed within said elongate passage, said elongate passage formed by folding said extension portion upon itself and joining an end portion of said extension portion to a surface of said extension portion.

Notice of Allowability



Application No.

08/455,366

Examiner

Bruce E Snow

Applicant(s)

KATO ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

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1. ☒ This communication is responsive to Amdt and the Examiner's Amdt.
2. ☐ The allowed claim(s) is/are 37, 40-43, 49-53, 57, 58 and 61-72.
3. ☐ The drawings filed on 01 May 1995 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

8. ☐ CORRECTED DRAWINGS must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No. _____

(b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.

(c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
- 2 ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 5 ☐ Information Disclosure Statements (PTO-1449), Paper No. _____
- 7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

- 2 ☐ Notice of Informal Patent Application (PTO-152)
- 4 ☒ Interview Summary (PTO-413), Paper No. _____
- 6 ☒ Examiner's Amendment/Comment
- 8 ☐ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

BRUCE SNOW
PRIMARY EXAMINER

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Carpenter on 8/21/01.

The application has been amended as follows:

Cancel claims 38, 39, and 59-60.

Replace claim 37.

A disposable absorbent pant comprising:

a chassis including a front panel, a back panel, a crotch panel, and an absorbent structure adjacent said crotch panel and having an end edge, said front panel and said back panel being selectively joined to form a waist opening and a pair of leg openings; said chassis formed from a multi-layer structure including an outer cover and a liner, said absorbent structure disposed between said outer cover and said liner, said outer cover and said liner extending beyond said end edge of said absorbent structure, one layer of said multi-layer structure including an extension portion extending beyond an edge of another layer of said multi-layer structure and peripherally surrounding said waist opening; and

a closed-loop waist elastic system including an elongate sleeve member defining an elongate passage therein, said waist elastic system being a separate structure from said chassis and being generally peripherally disposed about said waist

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opening, and at least one elongate elastic member disposed within said elongate passage;

wherein said waist elastic system is connected with said chassis only by connection with said extension portion of said one layer of said multi-layer structure.

Add new claims 61-75:

61. A disposable absorbent pant comprising:

a chassis including a front panel, a back panel, a crotch panel, and an absorbent structure adjacent said crotch panel and having an end edge, said front panel and said back panel being selectively joined to form a waist opening and a pair of leg openings; said chassis formed from a multi-layer structure including an outer cover and a liner, said absorbent structure disposed between said outer cover and said liner, said outer cover and said liner extending beyond said end edge of said absorbent structure, one layer of said multi-layer structure including an extension portion extending beyond an edge of another layer of said multi-layer structure and peripherally surrounding said waist opening; and

a closed-loop waist elastic system including an elongate sleeve member defining an elongate passage therein, said waist elastic system being made from a different material than said chassis and being generally peripherally disposed about said waist opening, and at least one elongate elastic member disposed within said elongate passage;

wherein said waist elastic system is connected with said chassis only by connection with said extension portion of said one layer of said multi-layer structure.

62. The disposable absorbent pant of claim 61, wherein said elongate passage is formed by the folding of a portion of said waist elastic system into a C-shape configuration.

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63. The disposable absorbent pant of claim 62, wherein said at least one elastic member is substantially freely movable within said elongate passage.

64. The disposable absorbent article of claim 63, wherein seams are formed where said front panel and said back panel are selectively joined, and said at least one elastic member is freely movable within said elongate passage between the seams.

65. The disposable absorbent pant of claim 62, wherein said at least one elastic member is intermittently joined to said elongate sleeve member at spaced apart zones.

66. The disposable absorbent pant of claim 61, wherein said closed-loop waist elastic system has a magnitude of decay of 48.95 to 86.77 grams at an extension of about 300 millimeters over the first three cycles.

67. The disposable absorbent pant of claim 61, wherein said closed-loop waist elastic system has a magnitude of decay of 53.40 to 86.77 grams at an extension of about 275 millimeters over the first three cycles.

68. The disposable absorbent pant of claim 61, wherein said closed-loop waist elastic system has a magnitude of decay of 51.17 to 80.10 grams at an extension of about 250 millimeters over the first three cycles.

69. The disposable absorbent pant of claim 61, wherein said closed-loop waist elastic system has a magnitude of decay of 48.95 to 71.20 grams at an extension of about 225 millimeters over the first three cycles.

70. The disposable absorbent pant of claim 61, wherein said closed-loop waist elastic system has a magnitude of decay of 31.15 to 64.53 grams at an extension of about 200 millimeters over the first three cycles.

71. The disposable absorbent pant of claim 61, wherein said outer cover comprises a liquid-permeable layer and a liquid-impermeable layer.

72. The disposable absorbent pant of claim 61, wherein the one layer of said multi-layer structure having said extension portion comprises said outer cover.

The following is an examiner's statement of reasons for allowance:

Amended claim 37 and new claim 61 require a closed-loop waist elastic system which is a separate structure from the chassis or made from a different material than the chassis; both describe the embodiment shown in figure 2 and not that shown in figure 3. These limitations were included to better define over Willot.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce E Snow whose telephone number is (703) 308-3255. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (703)308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and . for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

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August 22, 2001

BRUCE SNOW
PRIMARY EXAMINER